

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DRYWALL TAPERS AND POINTERS OF GREATER	:	
NEW YORK LOCAL UNION 1974, AFFILIATED	:	
WITH INTERNATIONAL UNION OF ALLIED	:	22-CV-10820 (JMF)
PAINTERS AND ALLIED TRADES, AFL-CIO,	:	
	:	<u>MEMORANDUM OPINION</u>
Petitioner,	:	<u>AND ORDER</u>
	:	
-v-	:	
	:	
NATIONAL DRYWALL INC.,	:	
	:	
Respondent.	:	
-----X	:	

JESSE M. FURMAN, United States District Judge:

On December 22, 2022, Petitioner filed a Petition to Confirm Arbitration. ECF No. 1. On December 27, 2022, the Court set a briefing schedule for Petitioner’s submission of any additional materials in support of the Petition, Respondent’s opposition, and Petitioner’s reply. ECF No. 7. Petitioner served Respondents with the Petition, supporting materials, and the briefing schedule. ECF Nos. 9-10. Pursuant to the briefing schedule, Respondent’s opposition was due no later than January 20, 2023. ECF No. 7. To date, Respondent has neither responded to the petition nor otherwise sought relief from the Award.

The Court must treat the Petition, even though unopposed, “as akin to a motion for summary judgment based on the movant’s submissions.” *Trs. for Mason Tenders Dist. Council Welfare Fund, Pension Fund, Annuity Fund & Training Program Fund v. Capstone Constr. Corp.*, 11-CV-1715 (JMF), 2013 WL 1703578, at \*2 (S.D.N.Y. Apr. 19, 2013) (discussing in depth the legal standards for resolving unopposed petitions to confirm arbitration awards). After

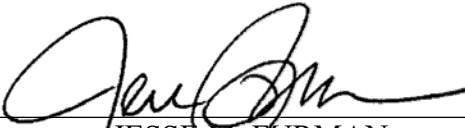
reviewing the petition and the supporting materials, the Court finds that there is no genuine issue of material fact precluding summary judgment as to all portions of the Award, as the Arbitrator's decision provides more than "a barely colorable justification for the outcome reached." *Id.* at \*3 (internal quotation marks omitted). Nor is there any justification under Section 10(a) of the Federal Arbitration Act for vacating the Award.

Petitioner also argues that it "is entitled to payment of its attorneys' fees and costs incurred in bringing this petition." *See* ECF 1-1. The Court agrees that Petitioner may be entitled to attorneys' fees and costs, because "[w]hen a challenger refuses to abide by an arbitrator's decision without justification, attorney's fees and costs may properly be awarded." *Int'l Chem. Workers Union (AFL-CIO), Local No. 227 v. BASF Wyandotte Corp.*, 774 F.2d 43, 47 (2d Cir. 1985) (internal quotation marks omitted). Here, however, Petitioner has submitted no materials proving the amount, reasonableness, and necessity of attorneys' fees and costs.

Accordingly, the Court grants Petitioner's unopposed petition to confirm the entire Award. Petitioner is directed to file any materials supporting its entitlement to attorneys' fees and costs, including contemporaneous billing records, by **February 6, 2023**, and is directed to file its Proposed Judgment electronically, using the ECF Filing Event "Proposed Judgment," by **February 13, 2023**.

SO ORDERED.

Dated: January 27, 2023  
New York, New York

  
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JESSE M. FURMAN  
United States District Judge